SUPREME COURT, U. S.

APR 21 1969

JOHN F. DAVIS, CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

No. 1087

HOLBROOK THAYER ASHTON, II,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

MOTION FOR RECONSIDERATION AND TO FILE SUPPLEMENT TO PETITION

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SUPPLEMENT TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Petitioner invites the Court's attention to the following:

1. Petitioner Ashton's case involves a point now being stressed for a special reason, one recited below.

This point, in the words of the Eighth Circuit opinion is, "Defendant urges that there exists 'no basis in fact' for his classification and therefore his failure to exhaust administrative remedies under the Selective Service Act is immaterial. We disagree."

2. This Court *has granted certiorari,* this Term, in a case involving exactly this type of problem.

In the words of the Solicitor General [in his Brief for the United States in Opposition, in the *Matter of Sorrano* v. *U.S.A.*, Oct. Term, 1968, No. 838]:

> "Since the validity of the exhaustion of administrative remedies doctrine is now pending before the Court in McKart v. United States, No. 403 this Term, and, DuVernay v. United States, No. 814 this Term, the Court may wish to defer action on this petition until it decides those cases."

Respectfully,

J. B. TIETZ
Attorney for Petitioner

APRIL 9, 1969